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UNCLAS HANOI 003018

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INFO	LOG-00	NP-00	AID-00	AIT-03	AMAD-00	ACQ-00	CA-01
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	UTED-00	VC-00	HHS-01	H-01	TEDE-00	INR-00	IO-00
	LAB-01	L-00	VCE-00	MOFM-05	MOF-01	AC-01	NSAE-00
	NSCE-00	OIC-02	OMB-01	OPIC-01	PA-00	PM-00	PRS-00
	ACE-00	P-00	SP-00	STR-00	TEST-00	TRSE-00	USIE-00
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R 190815Z DEC 02
FM AMEMBASSY HANOI
TO SECSTATE WASHDC 8404
INFO AMEMBASSY BANGKOK
AMEMBASSY BEIJING
AMEMBASSY PHNOM PENH
AMEMBASSY VIENTIANE
AMCONSUL GUANGZHOU
AMCONSUL HO CHI MINH CITY
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USMISSION UNVIE VIENNA
AIT TAIPEI 0716
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E.O. 12958: N/A
TAGS: [PHUM](#) [KWMN](#) [PREL](#) [PREF](#) [EAID](#) [ELAB](#) [SMIG](#) [SOCI](#) [VM](#) [TIP](#)
SUBJECT: VIETNAM: TRAFFICKING IN PERSONS LEGAL ENVIRONMENT

1. (U) SUMMARY: AT A NATIONAL SEMINAR ON TRAFFICKING IN PERSONS (TIP), GVN AND INTERNATIONAL ORGANIZATION PARTICIPANTS CONCLUDED THAT TIP IN VIETNAM AND THE REGION APPEARS ON THE INCREASE, ALTHOUGH LITTLE RELIABLE DATA IS AVAILABLE. SRV LAW GENERALLY CONFORMS TO THE UN PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH TRAFFICKING IN PERSONS - ESPECIALLY WOMEN AND CHILDREN. THERE ARE SOME KEY DIFFERENCES: SRV LAW IN SOME CASES DEFINES CHILDREN AS 16 AND UNDER RATHER THAN 18 AND UNDER, AND IT DOES NOT CURRENTLY INCLUDE PROVISIONS FOR THE PROTECTION OF VICTIMS, WITNESSES, OR MALES. PARTICIPANTS INCONCLUSIVELY DEBATED MOVING THE LOCUS OF THE TIP FIGHT FROM ITS CURRENT DIVISION OF LABOR BETWEEN THE MINISTRY OF LABOR, INVALIDS, AND SOCIAL AFFAIRS (MOLISA) AND THE MINISTRY OF PUBLIC SECURITY (MPS). THE BOTTOM LINE REMAINS THAT THE GVN AS A WHOLE HAS DEMONSTRATED A WELCOME COMMITMENT AND WILLINGNESS TO ADDRESS TIP, AND HAS BEEN OPEN TO MANY FORMS OF HELP ON THE ISSUE. END SUMMARY.

SEMINAR OVERVIEW AND PARTICIPANTS

2. (U) THE MINISTRY OF JUSTICE (MOJ) AND UNICEF SPONSORED A "NATIONAL SEMINAR ON INTERNATIONAL LAW ON TRAFFICKING OF UNCLASSIFIED

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WOMEN AND CHILDREN" IN HANOI ON DECEMBER 6. THE SEMINAR REVIEWED THE CURRENT STATUS OF TIP, SRV LAWS RELATING TO TRAFFICKING, INTERNATIONAL AGREEMENTS, AND INTERNATIONAL EFFORTS AGAINST TIP, AND DISCUSSED WHAT WOULD NEED TO BE DONE ADDITIONALLY AND HOW THE SRV WOULD BENEFIT FROM SIGNING AND IMPLEMENTING THE UN PROTOCOL TO PREVENT, SUPPRESS, AND PUNISH TRAFFICKING IN PERSONS - ESPECIALLY WOMEN AND CHILDREN. SPEAKERS INCLUDED VICE MINISTER OF JUSTICE HA HUNG CUONG, UNICEF COUNTRY REPRESENTATIVE ANTHONY BLOOMBERG, DEPUTY OFFICE DIRECTORS FROM THE MINISTRY OF FOREIGN AFFAIRS (MFA), MOJ, AND MOLISA, AND AN EXPERT FROM UNICEF. PARTICIPANTS FROM THE NATIONAL ASSEMBLY SOCIAL AFFAIRS COMMITTEE, THE SUPREME PEOPLE'S COURT, THE SUPREME PEOPLE'S PROCURACY, AND OXFAM QUEBEC POSED QUESTIONS AT VARIOUS POINTS. REPRESENTATIVES OF A NUMBER OF OTHER GVN MINISTRIES, SEVERAL INTERNATIONAL ORGANIZATIONS, AND AT LEAST TEN EMBASSIES BROUGHT TOTAL ATTENDANCE TO ALMOST 50.

UPDATE ON TRAFFICKING IN PERSONS

13. (U) A NUMBER OF SPEAKERS INDICATED THAT THE VOLUME OF TIP IN VIETNAM AND THE MEKONG SUB-REGION IS INCREASING, ALTHOUGH NO ONE OFFERED CONCRETE NUMBERS ON THE SIZE OF THE INCREASE. MFA INTERNATIONAL LAWS AND TREATIES DEPARTMENT DEPUTY DIRECTOR NGUYEN TRUONG GIANG CITED LAW ENFORCEMENT FIGURES FOR THE PERIOD 1991 TO 1999 SHOWING THAT POLICE DISCOVERED 2015 TIP CASES AND ARRESTED 3376 SUSPECTS, LEADING TO 2895 PROSECUTIONS. ABOUT 60 PERCENT OF CONVICTED TRAFFICKERS WERE WOMEN, MOST OF THEM FORMER TRAFFICKING
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VICTIMS THEMSELVES. THE POLICE ESTIMATE THAT 55.5 PERCENT OF TIP IN VIETNAM IS INTERNATIONAL, WHILE 44.5 PERCENT IS DOMESTIC. A MOLISA OFFICIAL SAID THAT ABOUT 10,000 WOMEN TRAFFICKING VICTIMS HAVE RETURNED TO VIETNAM IN RECENT YEARS. MR. TAI FROM THE PROCURACY NOTED THAT "HUNDREDS" OF PEOPLE ARE TRIED FOR TRAFFICKING EVERY YEAR IN VIETNAM.

14. (U) PARTICIPANTS DISCUSSED MAJOR EXTERNAL CHALLENGES TO REDUCING TRAFFICKING. ONE OF THE MOST SIGNIFICANT, CITED BY UNICEF'S BLOOMBERG AND MOLISA DEPARTMENT OF SOCIAL EVILS PREVENTION DEPUTY DIRECTOR NGUYEN VAN MINH, IS THE STRONG DEMOGRAPHIC PULL FACTOR CREATED BY CHINA'S WEALTHIER AND DISPROPORTIONATELY MALE POPULATION. MINH ALSO ESTIMATED THAT ABOUT TEN PERCENT OF VIETNAMESE BRIDES GOING TO TAIWAN ACTUALLY ENDED UP AS TRAFFICKING VICTIMS, WITH MOST OF THESE FORCED INTO PROSTITUTION. HE DESCRIBED THIS AS "AN ALARMING BILATERAL ISSUE BETWEEN TAIWAN AND VIETNAM." ANOTHER CHALLENGE UNICEF AND MOJ STAFF CITED IS A GROWING ORGANIZED CRIME INVOLVEMENT IN TIP, LARGELY BECAUSE IT IS "MORE PROFITABLE THAN DRUG TRAFFICKING." SOME CRIMINAL RINGS APPEAR TO BE INVOLVED IN BOTH KINDS OF TRAFFICKING.

LAWS AND PROTOCOLS

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INFO	LOG-00	NP-00	AID-00	AIT-03	AMAD-00	ACQ-00	CA-01
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15. (U) UNICEF RIGHTS PROMOTION PROJECT OFFICER VU NGOC BINH PROVIDED AN EXPLANATION OF INTERNATIONAL AGREEMENTS IMPINGING ON TIP. MFA INTERNATIONAL LAWS AND TREATIES DEPARTMENT DEPUTY DIRECTOR GIANG OFFERED A DETAILED TECHNICAL EXPLANATION OF HIS VIEWS ON THE UN PROTOCOL ON COMBATING TRAFFICKING IN PERSONS AND ITS RELATION TO SRV LAWS. GIANG SAID THAT THE PROTOCOL IS "BASICALLY IN LINE WITH CURRENT POLICY ON PREVENTION AND SUPPRESSION OF CRIMES AND IN COMPLIANCE WITH THE 1992 CONSTITUTION AND LEGAL SYSTEM." HE RECOUNTED A LONG LIST OF SRV REGULATORY MECHANISMS DEALING WITH TIP IN VARIOUS WAYS: ARTICLES 119 AND 120 OF THE CRIMINAL CODE, WHICH OUTLAW TRAFFICKING IN WOMEN AND CHILDREN; LABOR LAWS IMPINGING ON WORKER TRAINING

AND REGULATING LABOR EXPORT; EDUCATION LAWS RELATING TO AWARENESS RAISING; GOVERNMENT REGULATIONS AND DECREES ON THE MEDIA AND ADVERTISING; AND, MORE RECENT DECREES OUTLAWING PRIVATE MARRIAGE BROKERAGE SERVICES.

16. (U) GIANG NOTED SOME DISCREPANCIES BETWEEN THE PROTOCOL AND SRV LAW. THE CURRENT PENAL CODE DEFINES TRAFFICKING MORE BROADLY AND "REQUIRES LESS BURDEN OF PROOF" THAN THE PROTOCOL. THE PENAL CODE DOES NOT PROVIDE A GENERAL EXPLICIT DEFINITION OF THE TERM "A CHILD," ALTHOUGH ELSEWHERE IN SRV LAW "A CHILD" IS DEFINED AS A PERSON UNDER THE AGE OF 16. (THE PROTOCOL DEFINES "A CHILD" AS A PERSON UNCLASSIFIED

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UNDER THE AGE OF 18.) ACCORDING TO GIANG, VICTIMS ELIGIBLE FOR REPATRIATION INCLUDE THOSE WHO RETAIN VIETNAMESE NATIONALITY AND HAVE NO OTHER NATIONALITY, WHILE THE PROTOCOL REQUIRES STATE PARTIES TO RECEIVE A VICTIM WHO HAS THE RIGHT OF PERMANENT RESIDENCE IN THAT STATE. VIETNAM HAS NOT CRIMINALIZED THE TRAFFICKING OF MALES, WHICH THE PROTOCOL STIPULATES. THE CRIMINAL PROCEDURE CODE HAS NO PROVISIONS FOR PROTECTION OF VICTIMS AND WITNESSES OF TRAFFICKING. FINALLY, ACCORDING TO GIANG, VIETNAM DOES NOT OBLIGE ALL TRANSPORTATION PROVIDERS TO ASCERTAIN WHETHER ALL PASSENGERS POSSESS TRAVEL DOCUMENTS, ALTHOUGH THERE IS A CRIMINAL LIABILITY FOR FAILURE TO REPORT TIP, SHOULD A PERSON BECOME AWARE OF SUCH.

GVN RESPONSES TO TIP

17. (U) NATIONAL ASSEMBLY (NA) COMMITTEE FOR SOCIAL AFFAIRS DEPUTY CHAIRMAN LUONG PHAN CU STATED THAT ALTHOUGH TIP "IS A BURNING ISSUE" IN VIETNAM AND OTHER COUNTRIES, HE WAS WORRIED ABOUT WHETHER ALL WOULD LIVE UP TO THEIR OBLIGATIONS UNDER THE TREATY. MORE SPECIFICALLY, MFA'S GIANG EXPRESSED CONCERN OVER THE PROTOCOL'S PROVISIONS FOR REPATRIATION OF VICTIMS CONSTITUTING A FINANCIAL AND LOGISTICAL BURDEN THAT A POOR COUNTRY SUCH AS VIETNAM COULD NOT SHOULDER. UNICEF REPRESENTATIVE BLOOMBERG CLARIFIED THAT THE PROTOCOL'S LANGUAGE IS FLEXIBLE REGARDING ITS HUMANITARIAN PROVISIONS SUCH AS REPATRIATION AND CARRIES THE EXPECTATION THAT NGO'S AND CIVIL SOCIETY WILL CARRY SOME OF THIS LOAD. LIKEWISE, AN MFA INTERNATIONAL LAW AND TREATY EXPERT ASSURED MOJ UNCLASSIFIED

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INTERNATIONAL COOPERATION DEPUTY DIRECTOR VU DUC LONG THAT IT WOULD NOT BE DIFFICULT TO CLOSE GAPS BETWEEN SRV LAW AND ARTICLE 10 OF THE UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (TNO), BECAUSE THE TNO PERMITS THE LIABILITY OF LEGAL PERSONS TO BE EITHER CRIMINAL, CIVIL, OR AND ADMINISTRATIVE.

18. (U) UNICEF'S BINH HIGHLIGHTED APPROACHES SOME OTHER COUNTRIES TAKE TO TIP, INCLUDING THE ESTABLISHMENT OF CENTRAL OFFICES FOR MONITORING TIP IN CAMBODIA AND THAILAND. HE ALSO REFERRED TO THE US TRAFFICKING VICTIMS PROTECTION ACT OF 2002 AND THE ESTABLISHMENT OF G/TIP WITHIN DOS. HE ALSO BRIEFLY REVIEWED THE DOS REPORT ON TRAFFICKING IN PERSONS AND DESCRIBED THE REPORT'S TIERS AS, "TIER I: EXEMPLARY EFFORTS; TIER II: MADE EFFORTS BUT NOT ELIMINATED; TIER III: NOT MUCH EFFORT MADE." VIETNAM'S TIER WAS NOT DISCUSSED. BINH REMARKED THAT VIETNAM'S CRIMINAL PENALTIES FOR TIP ARE SEVERE, UP TO LIFE IN PRISON.

19. (U) MOLISA DEPARTMENT OF SOCIAL EVILS PREVENTION DEPUTY DIRECTOR NGUYEN VAN MINH CITED A SURVEY CONDUCTED BY THE HO CHI MINH NATIONAL POLITICAL ACADEMY (THE MAIN CPV TRAINING INSTITUTION AND THINK TANK) WHICH SHOWED THAT 19-20 PERCENT OF LEADERS DID NOT KNOW ABOUT TIP "RELEVANT DOCUMENTS" AND THAT A NUMBER OF PROVINCIAL LEADERS HAVE SAID THAT TIP IS NOT IMPORTANT NOW BECAUSE THERE ARE "MORE PRESSING ISSUES"

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INFO AMEMBASSY BANGKOK
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SUCH AS POVERTY ELIMINATION. HE STRESSED THAT THE GVN HAS DEVELOPED A GOOD LEGAL FRAMEWORK TO WHICH LOCAL AUTHORITIES NEED TO PAY ATTENTION. MINH RECOMMENDED THAT TIP PREVENTION MUST BE INCLUDED IN SOCIO-ECONOMIC DEVELOPMENT. MOLISA PREDICTS THAT, BY 2010, TRAFFICKING IN WOMEN AND CHILDREN "WILL BE STOPPED."

10. (U) PARTICIPANTS FROM VARIOUS GVN ENTITIES AND UNICEF DISCUSSED AND DEBATED WAYS TO IMPROVE HOW THE GVN DEALS WITH TIP. MOLISA AND MPS HAVE HAD THE LEAD ON INTERNATIONAL TRAFFICKING IN WOMEN AND CHILDREN SINCE 1997'S PRIME MINISTERIAL DECREE 766. BINH OF UNICEF OPINED THAT INTERNATIONAL ORGANIZATIONS ARE CONFUSED ABOUT WITH WHOM THEY SHOULD WORK -- MPS, MOLISA, THE WOMEN'S UNION, OR SOME OTHER ENTITY. AN MOJ ADMINISTRATIVE AND CRIMINAL LAW DEPARTMENT OFFICIAL COMPLAINED THAT MOLISA HAS NOT COORDINATED WITH MOJ ON THE NATIONAL PLAN OF ACTION ON TRAFFICKING IN WOMEN AND CHILDREN IT IS DEVELOPING. SHE ALSO CONTRASTED SEEMINGLY GOOD INTERAGENCY COOPERATION IN NEIGHBORING COUNTRIES WITH THE SITUATION IN VIETNAM. FINALLY, SHE QUESTIONED MOLISA'S EMPHASIS ON VICTIMS WHO HAD BEEN PROSTITUTES, WONDERING WHAT WAS BEING DONE FOR OTHER TYPES OF VICTIMS.

11. (U) MOJ REPRESENTATIVES SAID THAT THEY ARE TAKING AN
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ACTIVE ROLE IN REVIEWING AND DRAFTING LAWS AND, TOGETHER WITH MFA AND MPS, ARE ACTIVE IN LEGAL COOPERATION WITH NEIGHBORING COUNTRIES. PARTICIPANTS FROM BOTH THE NATIONAL ASSEMBLY AND THE SUPREME PEOPLE'S COURT EXPRESSED INTEREST IN IMPROVING INTERNATIONAL COOPERATION. ACCORDING TO MOJ DEPUTY DIRECTOR OF INTERNATIONAL COOPERATION LONG, VIETNAM ENJOYS GOOD COOPERATION AND INFORMATION SHARING WITH NEIGHBORING COUNTRIES AND HAS LEGAL ASSISTANCE TREATIES WITH A NUMBER OF THEM, SPECIFICALLY CITING CHINA, LAOS, AND MORE RECENTLY THE PHILIPPINES. HOWEVER, HE NOTED THAT CAMBODIA HAS NOT YET RESPONDED TO THE GVN'S REQUEST TO NEGOTIATE A LEGAL ASSISTANCE TREATY.

12. (U) COMMENT: ALTHOUGH MOLISA HAS TECHNICALLY HAD THE LEAD FOR NON-LAW ENFORCEMENT RELATED ASPECTS OF TIP, ESPECIALLY INTERNATIONAL TIP, ITS "SOCIAL EVILS" APPROACH -- WHILE ENERGETIC -- USUALLY CONCEPTUALIZES TIP IN AN UNREALISTIC WAY. THE FRUSTRATIONS MOJ OFFICIALS VOICED WITH MOLISA ARE OFTEN HEARD FROM OTHER QUARTERS. MANY WHO TRY TO HELP TIP VICTIMS AND POTENTIAL VICTIMS WORK AROUND RATHER THAN WITH MOLISA. THEY OFTEN FAVOR COOPERATING WITH THE WOMEN'S UNION INSTEAD. EFFORTS TO IMPROVE LAW ENFORCEMENT MEASURES AGAINST TIP APPEAR MORE STRAIGHTFORWARD AS THE VIETNAMESE LAW ENFORCEMENT COMMUNITY DOES NOT SHAPE ITS FOCUS EXCLUSIVELY THROUGH MOLISA'S "SOCIAL EVILS" LENS. THE BOTTOM LINE REMAINS, HOWEVER, THAT THE GVN AS A WHOLE HAS DEMONSTRATED A WELCOME COMMITMENT AND WILLINGNESS TO ADDRESS TIP, AND HAS BEEN OPEN TO MANY FORMS OF HELP ON THE ISSUE.
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